

ANN BAVENDER*
ANNE GOODWIN CRUMP
VINCENT J. CURTIS, JR.
RICHARD J. ESTEVEZ
PAUL J. FELDMAN
RICHARD HILDRETH
FRANK R. JAZZO
ANDREW S. KERSTING
EUGENE M. LAWSON, JR.
SUSAN A. MARSHALL*
HARRY C. MARTIN
GEORGE PETRUTSAS
RAYMOND J. QUIANZON
LEONARD R. RAISH
JAMES P. RILEY
KATHLEEN VICTORY
HOWARD M. WEISS
*NOT ADMITTED IN VIRGINIA

FLETCHER, HEALD & HILDRETH, P.L.C.

ATTORNEYS AT LAW
11th FLOOR, 1300 NORTH 17th STREET
ARLINGTON, VIRGINIA 22209-3801

(703) 812-0400

TELECOPIER

(703) 812-0486

INTERNET

www.fhh-telcomlaw.com

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

FRANK U. FLETCHER
(1939-1985)
ROBERT L. HEALD
(1956-1983)
PAUL D. P. SPEARMAN
(1936-1962)
FRANK ROBERSON
(1936-1961)
RUSSELL ROWELL
(1948-1977)

EDWARD F. KENEHAN
(1960-1978)

CONSULTANT FOR INTERNATIONAL AND
INTERGOVERNMENTAL AFFAIRS
SHELDON J. KRYS
U. S. AMBASSADOR (ret.)

OF COUNSEL
EDWARD A. CAINE*
MITCHELL LAZARUS*
EDWARD S. O'NEILL*
JOHN JOSEPH SMITH

WRITER'S DIRECT

(703) 812-0429

petrusa@fhh-telcomlaw.com

August 2, 1999

VIA HAND DELIVERY

Magalie Roman Salas, Esquire
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W. - Room TW-B204
Washington, D.C. 20554

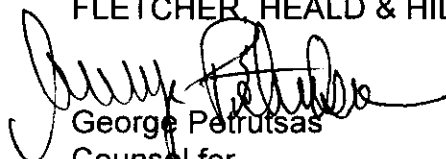
Re: WT Docket No. 99-87

Dear Ms. Salas:

On behalf of Forest Industries Telecommunications, we are filing an original and nine (9) copies of its Comments on the above-referenced rulemaking proceeding.

Please communicate with us if additional information is required.

Very truly yours,
FLETCHER, HEALD & HILDRETH, PLC



George Petrutsas
Counsel for
Forest Industries Telecommunications

GP:cej

Enclosures

cc: All Commissioners (w/enc.)

Chief, WTB (w/enc.)

Chief, PS&PWD (w/enc.)

Deputy Chief, PS&PWD (w/enc.)

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BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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AUG 2 1999

In the Matter of)

Implementation of Sections 309(j) and)
337 of the Communications Act of 1934)
as Amended)

Promotion of Spectrum Efficient)
Technologies on Certain Part 90)
Frequencies)

Establishment of Public Service Radio)
Pool in the Private Mobile)
Frequencies Below 800 MHz)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
WT Docket No. 99-87

RM-9332

**COMMENTS OF
FOREST INDUSTRIES TELECOMMUNICATIONS**

Respectfully submitted,

FOREST INDUSTRIES TELECOMMUNICATIONS

Kenton Sturdevant
Executive Vice President
Forest Industries Telecommunications
871 Country Club Road - Suite A
Eugene, Oregon 97401

George Petrutsas
FLETCHER, HEALD & HILDRETH, PLC
1300 North 17th Street - 11th Floor
Arlington, Virginia 22209

Its Attorney

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Date: August 2, 1999

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SUMMARY

FIT believes that the expansion of the Commission's authority to auction mutually exclusive applications in the private wireless services is not a statutory mandate to the Commission to change the current licensing procedures and to replace them with one or more licensing schemes that would bring about mutually exclusive applications and auctions. Changing the current procedures for licensing land mobile wireless facilities, particularly on frequencies below 470 MHz, as apparently the Commission contemplates, would bring about upheavals in the private land mobile wireless communications services without substantial compensatory benefits. FIT believes that the public interest and the statutory objectives would best be served by continuing to assign frequencies below 470 MHz for private wireless land mobile communications systems on a frequency sharing basis, site-by-site, and following frequency coordination.

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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Promotion of Spectrum Efficient)	RM-9332
Technologies on Certain Part 90)	
Frequencies)	
)	
Establishment of Public Service Radio)	
Pool in the Private Mobile)	
Frequencies Below 800 MHz)	

COMMENTS OF FOREST INDUSTRIES TELECOMMUNICATIONS

Forest Industries Telecommunications ("FIT"), by counsel, submits its comments in response to the Commission's Notice of Proposed Rulemaking in the above-referenced proceeding. In that proceeding, the Commission proposes to implement the amendments to Section 309(j) of the Communications Act of 1934, enacted by the Balanced Budget Act of 1997 ("1997 Budget Act"), which expanded the Commission's auction authority to include mutually exclusive applications in the private wireless services.

I. Introduction

FIT is the national organization of land mobile wireless users in the forest products industry. It has been representing that industry's interests in land mobile

communications for nearly half a century. It had been the certified frequency coordinator for the former Forest Products Radio Service and it is now one of the certified frequency coordinator for the Industrial/Business frequency pool. Therefore, FIT and the industry it represents are vitally interested in the matters the Commission is considering in this proceeding.

FIT supports the views of the Land Mobile Communications Council (LMCC) discussed in its Comments in the proceeding. In addition, FIT respectfully submit the following.

Briefly, FIT believes that the expansion of the Commission's authority to auction mutually exclusive applications in the private wireless services is not a statutory mandate to the Commission to change the current licensing procedures and replacing them with one or more licensing schemes that would bring about mutually exclusive applications and auctions. Changing the current procedures for licensing land mobile wireless facilities, particularly on frequencies below 470 MHz, as apparently the Commission contemplates, would bring about upheavals in the private land mobile wireless communications services without substantial compensatory benefits. FIT believes that the public interest and the statutory objectives would best be served by continuing to assign frequencies below 470 MHz for private wireless land mobile communications systems on a frequency sharing basis, site-by-site, and following frequency coordination. This approach has been highly successful in authorizing over the years more than a million land mobile communications systems that serve the Nation well. The current licensing system works well. There is no need to cast it aside.

To the extent that the Commission may feel that the government should obtain some revenue from those using the land mobile allocated frequencies, over and above the regulatory fees now being paid, the Commission may want to consider proposing to Congress a system of reasonable user fees, rather than destroy a good working system in order to accommodate auctions.

II. Comments

1. The 1997 Budget Act does not require adoption of a new licensing scheme for the non-exempt private wireless services in order to accommodate auctions

Section 309(j)(1) of the Communications act, as amended by the 1997 Budget Act, provides that, if, consistent with the Commissions obligations prescribed in Paragraph (6)(E) of that Section, mutually exclusive applications are accepted for any initial license [in the non-exempt services], the Commission would be required to select the applications to be granted by auction. The new statute, however, does not direct or specifically authorize the Commission to change the existing licensing system so as to create mutual exclusive situations and auctions. Indeed, the explicit reference to Paragraph (6)(E) in the very introductory language of the new law indicates the importance Congress has assigned to the obligation of the Commission to employ such methods as engineering, frequency sharing, coordination, and other means to avoid mutual exclusivity. Section 309(j) requires the Commission to employ auctions only "if" mutually exclusive applications are submitted. This is a far cry from requiring, as the Commission seems to have assumed, or even permitting the Commission to dismantle

the current, well functioning licensing system in order to create mutual exclusivity and auctions. As the Commission noted in Paragraph 19 and in footnote 52 of its Notice, the House and Senate conferees expressed concern that the Commission may interpret its expanded auction authority in a manner that overlooks engineering and other solutions that may in fact avoid mutual exclusivity.¹

In sum, the Commission must not assume, as it apparently has, that the expansion of its auction authority to include some of the private services requires revamping the current licensing procedures in order to facilitate auctions.

2. The "regional", or "band manager" licensing schemes contemplated by the Commission would simply not be suitable for the private wireless land mobile services

Applications for licenses in the private wireless land mobile services, certainly those for frequencies below 470 MHz, are not auctionable under the 1997 Budget Act. Frequencies in the bands below 470 are assigned for shared use, and applications for frequency assignments are processed essentially first-come, first-served. Those applications are prior-coordinated and are engineered to accommodate the applicant's specific needs and to fit the proposed system into the existing environment. This

¹The Conference Report states in pertinent Part:

"The conferees are particularly concerned that the Commission might interpret it expand competitive bidding authority in a manner that minimizes its obligation under Section 309(j)(6)(E), thus overlooking engineering selections, negotiations, or other tools that avoid mutual exclusivity." H.R. Conf. Rep. No. 105-217, 105th Cong. 1st Sess, at 572.

system of licensing and regulation has worked well and continues to work well. Under it, more than a million private wireless land mobile stations have been licensed to operate nearly 15 million transmitters.² Those stations are satisfying reasonably well the land mobile communications requirements of the Nation's industry and commerce and of state and local governmental agencies.

The current site-by-site licensing with prior coordination is well suited for authorizing private land mobile communications facilities. This is because there is practically an infinite variety of private land mobile systems, varying greatly in size, configuration, coverage, purpose. They are not concentrated anywhere; they are scattered around the nation in that they are integrated in the activities they are designed to support.

The forest products industry, for example, operates predominantly in remote, forested areas, often over relatively large areas. In those areas, commercial mobile radio service is at best limited. To provide adequate service, the radio communications systems are designed to meet the unique requirements of the user in the area to be covered. Such systems are fairly complex. They include mobile relay facilities used to extend the range of mobile units, fixed relays that relay the signal from one mobile relay to another and thus broaden the coverage of the system. Microwave fixed facilities are often used to connect the control center to one or more of the relays. Forest products mobile system must communicate with relatively high power vehicular mobile units, as

²See, e.g., Private Land Mobile Services: Staff White Paper, December 18, 1996, Prepared by the staff of the Wireless Telecommunications Bureau ("WTB Staff White Paper").

well as with lower power transportable or even hand held units. Specialized systems have been developed to meet some unique logging operations. One of them is a radio controlled "whistle" system for so-called "High-Lead" logging in the Pacific Northwest. Another is a "tally system" using computer based voice and recognition software for inventory woodlands and products. Forest related radio systems are frequently located on high mountain tops or are mounted on tall towers in order to provide the wide area coverage needed for communications between the remote logging sites, truck drivers and crews, offices and mills, and wood yards. It is not unusual for a logging crew to work 30 or 40 miles from the nearest town or for a log truck to travel over 100 miles one way for a load of logs. Effective communication over wide areas is vital and is best served by Low Band (25-50 MHz) and High Band (150-160 MHz) systems. It is difficult to imagine how communications requirements of this kind can be accommodated under the various auction schemes discussed in the Notice.

Moreover, even if private land mobile communications could, somehow, be accommodated by some sort of auctionable licensing scheme, at this point, conversion or relocation of the existing one million plus licensed stations would be highly disruptive, hugely costly, and simply impractical. As WTB's Staff White Paper reports, investment in existing land mobile systems exceeded \$25 billion several years ago. That investment now must exceed \$30 billion. It would be contrary to the public interest (indeed foolhardy) to bring about a costly upheaval in the land mobile communications of the Nation simply to satisfy a presumed congressional objective, which objective is not as clear as the Commission seems to have assumed.

The existing licensing and regulatory system for the private wireless land mobile services works, and work well; it is efficient in terms of spectrum use and in terms of the cost of licensing and regulation. It accommodates the Nation's requirements for land mobile communications and promote effective competition. It is far from broken. It may be improved. It should not be scrapped.

FIT realizes, of course, that the Commission has already converted several site-by-site licensing systems to auctionable systems. The ultimate public interest benefits results of those auctions decisions are yet to be demonstrated, however. In any event, there are huge differences between the services involved in those situations and the private land mobile wireless services. For one thing, those services involved either new spectrum or services where licenses had been issued with a degree of exclusivity. In all cases, commercial services were involved where the communication facilities were or could easily be re-configured to provide service to a broad range of customers. Here the frequencies involved are already very heavily assigned, heavily shared, the systems authorized are customized, and there are over one million licensed stations, over 15 million transmitters and nearly 30 billion of investment in incumbent systems to be "relocated". The practicalities alone mitigate against any favorable comparison with those actions.

In sum, FIT respectfully submits that the 1997 Budget Act amendments of Section 309(j) of the Act do not require the Commission to replace the existing system for licensing private land mobile systems with an auctionable system. The public interest would best be served by maintaining and improving the current licensing procedures and regulation of the private land mobile wireless services.

3. If the Commission adopts an auctionable licensing system for the private land mobile services, the forest products industry's use of private land mobile wireless communications should be exempted as a safety service

Paragraph (2) of Section 309(j) provides that the Commission's auction authority shall not apply to licenses issued for ". . . . internal radio services used by non-government entities that:

(i) are used to protect the safety of life, health, or property;

and (ii) are not made commercially available to the public.

The forest products private land mobile communications fit well within the foregoing provisions of the statute. Forest products communications systems are not made commercially available to the public and they are used predominantly for the protection of safety of life, health, and property.

The primary purpose of wireless mobile communications in the forest products industry is safety. Logging, by its nature, is a very hazardous activity. Logging operations are conducted in remote areas where ordinary facilities are scarce or non-existent. The injury rates are the highest of any major activity, 20 injuries or illness per 100 full time timber workers per year. Cutting huge trees, moving them to landing sites, loading them on special trucks and hauling them over often primitive roads are very hazardous activities. Radio is used to summon help in emergencies and to forewarn of hazards; it helps prevent and limit the ravages of forest fires. Thousands of acres of forest are destroyed each year by fire. Thousands of acres are also saved by quick responses. In short, reliable wireless mobile communications are essential in the forest products industry for the protection of life and property in a highly hazardous environment.

In addition, members of the forest products industry constitute an integral part in the Nations efforts to protect the forest from the ravages of forest fires and for the suppression of forest fires when they all too often occur. Their wireless mobile communications play a key role in coordinating activities with governmental fire fighting agencies as well as in all too frequent rescue operations. Increasingly, state and federal authorities include reliable radio communications as a part of their safety requirements for forestry operations. The need for reliable wireless communications for coordination with governmental public safety entities is clear.

In sum, while the forest products industry uses its private radio facilities for operational communications as well, those facilities are primarily ". . . used to protect the safety of life, health or property" and are, therefore, exempted from the Commission's auction authority.

4. The Commission should not establish
a Public Service Radio Pool

FIT would oppose the establishment of the public service pool proposed by the UTC, API and AAR for the reasons discussed in FIT's Comments on RM-9405, filed on December 23, 1998, which are incorporated here by reference. If the Commission establishes such a pool, the forest products industry must be part of it.

5. PMRS Channels must not be
used in CMRS Systems

Finally, FIT would oppose adoption of a rule that would allow use of PMRS frequencies in CMRS systems. This issue was considered by the Commission in PR Docket 93-144, where the Commission wisely decided to discontinue CMRS use of

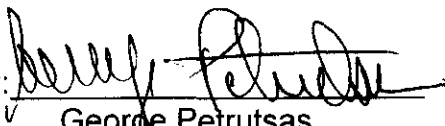
PMRS frequencies in the 800MHz band because such uses were exhausting the small supply of PMRS frequencies. This problem would be even more serious now since PMRS frequencies are even more scarce now than they were in 1995.

Respectfully submitted,

FOREST INDUSTRIES
TELECOMMUNICATIONS



Kenton Sturdevant
Executive Vice President

By: 

George Petrutsas
FLETCHER, HEALD & HILDRETH, PLC
1300 North 17th Street
11th Floor
Rosslyn, Virginia 22209
(703) 812-0400

Its Attorney

Date: August 2, 1999

CERTIFICATE OF SERVICE

I, Chellestine Johnson, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C. do hereby certify that copies of the foregoing "Comments" were sent this 2nd day of August, 1999, via Hand Delivery, to the following:

Chairman William E. Kennard*
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Commissioner Harold Furchtgott-Roth*
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Commissioner Michael Powell*
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Commissioner Susan Ness*
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Commissioner Gloria Tristani*
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Thomas J. Sugrue, Chief*
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W. - Room 3C252
Washington, D.C. 20554

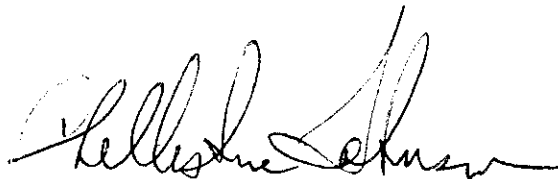
D'Wana Terry, Chief*
Public Safety & Private Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W. - 4th Floor
Washington, D.C. 20554

Herb Zeiler, Deputy Chief*
Public Safety & Private Wireless Div.
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W. - 4th Floor
Washington, D.C. 20554

John Cimko, Chief*
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W. - Room 3C124
Washington, D.C. 20554

Dale Hatfield, Chief*
Office of Engineering and Technology
Federal Communications Commission
445 12th Street, S.W. - Room 7C-155
Washington, D.C. 20554

***VIA HAND DELIVERY**



Chellestine Johnson